

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 178, As Amended

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO THE SEXUAL OFFENDER REGISTRATION ACT; AMENDING SECTION 18-8303, IDAHO CODE, TO REVISE A DEFINITION AND TO FURTHER DEFINE TERMS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 18-8304, IDAHO CODE, TO PROVIDE THAT CHAPTER 83, TITLE 18, IDAHO CODE, APPLIES TO PERSONS CONVICTED OF CERTAIN CRIMES AND TO CLARIFY THAT AN OFFENDER IS NOT REQUIRED TO COMPLY WITH THE SEX OFFENDER REGISTRATION REQUIREMENTS WHILE INCARCERATED; AND AMENDING SECTION 18-8308, IDAHO CODE, TO REQUIRE ELECTRONIC MONITORING OF VIOLENT SEXUAL PREDATORS AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 18-8303, Idaho Code, be, and the same is hereby amended to read as follows:

18-8303. DEFINITIONS. As used in this chapter:

(1) "Aggravated offense" means any of the following crimes ~~as set forth in section 18-8304, Idaho Code:~~ 18-1506A (ritualized abuse of a child); 18-1508 (lewd conduct, when the victim is less than twelve (12) years of age); 18-4003(d) (murder committed in the perpetration of rape); 18-4502 (first-degree kidnapping committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-4503 (second degree kidnapping where the victim is an unrelated minor child and the kidnapping is committed for the purpose of rape, committing an infamous crime against nature, committing any lewd and lascivious act upon any child under the age of sixteen years or for purposes of sexual gratification or arousal); 18-6101 (rape, but excluding section 18-6101(1) where the victim is at least twelve (12) years of age or the defendant is eighteen (18) years of age or younger); 18-6108 (male rape); and 18-6608 (forcible sexual penetration by use of a foreign object); 18-8602(1) (sex trafficking); and any other offense set forth in section 18-8304, Idaho Code, if at the time of the commission of the offense the victim was below the age of thirteen years.

(2) "Board" means the sexual offender classification board described in section 18-8312, Idaho Code.

(3) "Central registry" means the registry of convicted sexual offenders maintained by the Idaho state police pursuant to this chapter.

(4) "Certified evaluator" means either a psychiatrist licensed by this state pursuant to chapter 18, title 54, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to chapter 23, chapter 32, or chapter 34, title 54, Idaho Code. Such person shall have by education, experience and training, expertise in the assessment

and treatment of sexual offenders, and such person shall meet the qualifications and shall be approved by the board to perform psychosexual evaluations in this state, as described in section 18-8314, Idaho Code.

(5) "Department" means the Idaho state police.

(6) "Employed" means full-time or part-time employment exceeding ten (10) consecutive working days or for an aggregate period exceeding thirty (30) days in any calendar year, or any employment which involves counseling, coaching, teaching, supervising or working with minors in any way regardless of the period of employment, whether such employment is financially compensated, volunteered or performed for the purpose of any government or education benefit.

(7) "Incarceration" means committed to the custody of the Idaho department of correction or department of juvenile corrections, but excluding cases where the court has retained jurisdiction.

(8) "Offender" means an individual convicted of an offense listed and described in section 18-8304, Idaho Code, or a substantially similar offense under the laws of another state or in a federal, tribal or military court or the court of another country.

(9) "Offense" means a sexual offense listed in section 18-8304, Idaho Code.

(10) "Predatory" means actions directed at an individual who was selected by the offender for the primary purpose of engaging in illegal sexual behavior.

(11) "Psychosexual evaluation" means an evaluation which specifically addresses sexual development, sexual deviancy, sexual history and risk of reoffense as part of a comprehensive evaluation of an offender.

(12) "Recidivist" means an individual convicted two (2) or more times of any offense requiring registration under this chapter.

(13) "Residence" means the offender's present place of abode.

(14) "Student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

(15) "Violent sexual predator" means a person who has been convicted of an offense listed in section 18-8314, Idaho Code, and who has been determined to pose a high risk of committing an offense or engaging in predatory sexual conduct.

SECTION 2. That Section 18-8304, Idaho Code, be, and the same is hereby amended to read as follows:

18-8304. APPLICATION OF CHAPTER. (1) The provisions of this chapter shall apply to any person who:

(a) On or after July 1, 1993, is convicted of the crime, or an attempt, a solicitation, or a conspiracy to commit a crime provided for in section 18-909 (assault with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-911 (battery with attempt to commit rape, infamous crime against nature, or lewd and lascivious conduct with a minor, but excluding mayhem, murder or robbery), 18-919 (sexual exploitation by a medical care provider), 18-1505B (sexual abuse and exploitation of a vulnerable adult), 18-1506 (sexual abuse of a child under sixteen years of age), 18-1506A (ritualized abuse of a child), 18-1507 (sexual exploitation of a child), 18-1507A (possession of sexually exploitative material for other than a commercial purpose), 18-1508 (lewd conduct with

a minor child), 18-1508A (sexual battery of a minor child sixteen or seventeen years of age), 18-1509A (enticing a child over the internet), 18-4003(d) (murder committed in perpetration of rape), 18-4116 (indecent exposure, but excluding a misdemeanor conviction), 18-4502 (first degree kidnapping committed for the purpose of rape, committing the infamous crime against nature or for committing any lewd and lascivious act upon any child under the age of sixteen, or for purposes of sexual gratification or arousal), 18-4503 (second degree kidnapping where the victim is an unrelated minor child), 18-5609 (inducing person under eighteen years of age into prostitution), 18-6101 (rape, but excluding 18-6101 1. where the defendant is eighteen years of age or younger or where the defendant is exempted under subsection (4) of this section), 18-6108 (male rape), 18-6110 (sexual contact with a prisoner), 18-6602 (incest), 18-6605 (crime against nature), 18-6608 (forcible sexual penetration by use of a foreign object), ~~or~~ upon a second or subsequent conviction under 18-6609, ~~Idaho Code~~ (video voyeurism) or 18-8602(1), Idaho Code, (sex trafficking).

(b) On or after July 1, 1993, has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and enters the state to establish permanent or temporary residence.

(c) Has been convicted of any crime, an attempt, a solicitation or a conspiracy to commit a crime in another state, territory, commonwealth, or other jurisdiction of the United States, including tribal courts and military courts, that is substantially equivalent to the offenses listed in subsection (1)(a) of this section and was required to register as a sex offender in any other state or jurisdiction when he established permanent or temporary residency in Idaho.

(d) Pleads guilty to or has been found guilty of a crime covered in this chapter prior to July 1, 1993, and the person, as a result of the offense, is incarcerated in a county jail facility or a penal facility or is under probation or parole supervision, on or after July 1, 1993.

(e) Is a nonresident regularly employed or working in Idaho or is a student in the state of Idaho and was convicted, found guilty or pleaded guilty to a crime covered by this chapter and, as a result of such conviction, finding or plea, is required to register in his state of residence.

(2) ~~The provisions of this chapter~~ An offender shall not apply to any such person be required to comply with the registration provisions of this chapter while the person is incarcerated in a correctional institution of the department of correction, a county jail facility, committed to the department of juvenile corrections or committed to a mental health institution of the department of health and welfare.

(3) A conviction for purposes of this chapter means that the person has pled guilty or has been found guilty, notwithstanding the form of the judgment or withheld judgment.

(4) When a defendant is convicted of rape under section 18-6101 1., Idaho Code, and at the time of the offense the defendant is nineteen (19) or twenty (20) years of age and not more than three (3) years older than the victim of the rape, the court may order that the defendant is exempt from the requirements of this chapter upon a finding by the court that:

(a) All parties have stipulated to the exemption; or

(b) The defendant has demonstrated by clear and convincing evidence that he is not a risk to commit another crime identified in subsection (1) of this section and in the case there were no allegations by the victim of any violation of section 18-6101 2. through 7., Idaho Code.

SECTION 3. That Section 18-8308, Idaho Code, be, and the same is hereby amended to read as follows:

18-8308. VERIFICATION OF ADDRESS AND ELECTRONIC MONITORING OF VIOLENT SEXUAL PREDATORS. (1) ~~Violent sexual predators.~~ The address or physical residence of an offender designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every thirty (30) days between registrations, to each offender designated as a violent sexual predator.

(ii) Each offender designated as a violent sexual predator shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned to the department as not delivered, the department shall, within five (5) days, notify the sheriff with whom the offender designated as a violent sexual predator last registered.

(iii) The sheriff shall verify the address of the offender by visiting the offender's residence once every six (6) months or, if the offender fails to comply with the provisions of paragraph (a)(ii) of this subsection, at any reasonable time to verify the address provided at registration.

(2) ~~All other sexual offenders.~~ The address or physical residence of any sex offender not designated as a violent sexual predator shall be verified by the department between registrations.

(a) The procedure for verification shall be as follows:

(i) The department shall mail a nonforwardable notice of address verification every four (4) months between annual registrations.

(ii) Each offender shall complete, sign and return the notice of address verification form to the department within seven (7) days of the mailing date of the notice. If the notice of address verification is returned as not delivered, the department shall notify the sheriff within five (5) days and the sheriff shall visit the residence of the registered offender at any reasonable time to verify the address provided at registration.

(3) Any individual designated as a violent sexual predator shall be monitored with electronic monitoring technology for the duration of the individual's probation or parole period as set forth in section 20-219(2), Idaho Code. Any person who, without authority, intentionally alters, tampers with, damages or destroys any electronic monitoring equipment required to be worn or used by a violent sexual predator shall be guilty of a felony.